NOTICE: This opinion is subject to formal revision before publication in the bound volumes of NLRB decisions. Readers are requested to notify the Executive Secretary, National Labor Relations Board, Washington, D.C. 20570, of any typographical or other formal errors so that corrections can be included in the bound volumes.

Fortuna Enterprises, L.P. a Delaware limited partnership d/b/a The Los Angeles Airport Hilton Hotel and Towers and UNITE HERE, Local 11. Cases 31–CA–27837, 31–CA–27954, and 31–CA–28011

August 24, 2010

DECISION AND ORDER

BY CHAIRMAN LIEBMAN AND MEMBERS SCHAUMBER AND HAYES

On April 30, 2009, the two sitting members of the Board issued a Decision and Order Remanding in this proceeding, which is reported at 354 NLRB No. 17 and, on October 29, 2009, they issued a Supplemental Decision and Order in this proceeding, which is reported at 354 NLRB No. 95.1 The Respondent filed petitions for review in the United States Court of Appeals for the District of Columbia Circuit, and the General Counsel filed cross-applications for enforcement. On June 17, 2010, the United States Supreme Court issued its decision in New Process Steel, L.P. v. NLRB, 130 S.Ct. 2635, holding that under Section 3(b) of the Act, in order to exercise the delegated authority of the Board, a delegee group of at least three members must be maintained. Thereafter, the Board issued an order setting aside the abovereferenced decision and order remanding and supplemental decision and order, and retained this case on its docket for further action as appropriate.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.²

The Board has considered the judge's decision and supplemental decision, and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions and to adopt the recommended Orders to the extent and for the reasons stated in the decision and supplemental decision reported at 354 NLRB No. 17 and 354 NLRB No. 95, respectively, which have been set aside and which are incorporated herein by reference.³

Dated, Washington, D.C. August 24, 2010

Chairmar	
Member	
Member	
Brian E. Hayes, M L) NATIONAL LABOR RELATIONS	

² Consistent with the Board's general practice in cases remanded from the courts of appeals, and for reasons of administrative economy, the panel includes the members who participated in the original decision. Furthermore, under the Board's standard procedures applicable to all cases assigned to a panel, the Board Members not assigned to the

panel had the opportunity to participate in the adjudication of this case

at any time up to the issuance of this decision.

³ Member Hayes agrees with statements made by Member Schaum-

ber in fns. 5 and 8 of 354 NLRB No. 17.

¹ Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the powers of the National Labor Relations Board in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Thereafter, pursuant to this delegation, the two sitting members issued decisions and orders in unfair labor practice and representation cases.

³⁵⁵ NLRB No. 122